



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFL, MNDCL-S, MNRL-S, OPR

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order of Possession for unpaid rent pursuant to section 55;
- a monetary order for unpaid rent and for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to retain all or a portion of the tenants' pet damage and security deposits (the deposits) in partial satisfaction of the monetary order requested pursuant to section 38; and
- authorization to recover his filing fee for this application from the tenants pursuant to section 72.

The tenant did not attend this hearing, although I waited until 9:41 a.m. in order to enable them to connect with this teleconference hearing scheduled for 9:30 a.m. The landlord attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The landlord entered written evidence from his agent and sworn testimony that his agent posted the 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on the tenants' door at December 4, 2019. I am satisfied that the landlord's agent served this Notice to the tenants in accordance with section 88 of the *Act*. In accordance with section 90 of the *Act*, the 10 Day Notice was deemed served to the tenants on December 7, 2019, the third day after its posting.

The landlord gave written evidence and sworn oral testimony that copies of the landlord's dispute resolution hearing package was sent to the tenant by registered mail on December 19, 2019. The landlord entered into written evidence copies of the returned envelopes, including the Canada Post Tracking Numbers, showing the item

was unclaimed by the tenant. I am satisfied that the landlord acted in accordance with section 89 of the Act, accordingly; the hearing proceeded and completed on that basis.

Issues(s) to be Decided

Is the landlord entitled to an Order of Possession for unpaid rent?

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to retain all or a portion of the tenants' deposits in partial satisfaction of the monetary award requested?

Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

The tenancy began on or about November 1, 2019. Rent in the amount of \$2500.00 is payable in advance on the first day of each month. The tenant paid a security deposit of \$1250.00 which the landlord still holds. The tenant failed to pay rent in the month(s) of November 2019 to January 2020; inclusive. SM testified that he served two separate suite inspection notices and found that the tenant had abandoned the unit. HG testified that he has stored the tenant's personal belongings and is hoping to hear from him as there has been no contact for over two months. HG testified that he seeks the unpaid rent for the three months and the recovery of the filing fee. HG testified that he has taken back possession of the unit and has rented it out again.

Analysis

The tenant failed to pay their rent in full within five days of being deemed to have received the 10 Day Notices. The tenant has not made application pursuant to section 46(4) of the *Act* within five days of being deemed to have received the 10 Day Notice. In accordance with section 46(5) of the *Act*, the tenants' failure to take either of these actions within five days led to the end of their tenancy on the corrected effective date of the notice.

As the tenant has abandoned the unit and the landlord has already taken back possession, an order of possession is no longer required.

Based on the undisputed evidence provided by the landlord, I am satisfied that the tenant continues to owe the landlord unpaid rent. I am satisfied that the landlord is entitled to the \$7500.00 unpaid rent as claimed as well as the recovery of the \$100.00 filing fee.

Conclusion

The landlord has established a claim for \$7600.00. I order that the landlord retain the \$1250.00 security deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$6350.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 24, 2020

Residential Tenancy Branch